

[to Hillsborough]

Portsmouth New Hampshire

October 22: 1770.

M^r. Wentworth

Surveyor General of Woods

14 5th Jan^y 1771

B.

The Original Letters &
Inclosures sent to
the Board of Trade.

May it please your Lordship, ^[p. 210]

As some of the most essential affairs relating to the preservation of The King's Woods in North America have been pending in the Province of New York until this week, I have been thereby necessarily delayed transmitting your Lordship a full and complete state of this important service, which yields me the honour to crave your Lordship's permission thereto by this opportunity.

Having discovered that some people in the Eastern division of the late called Province of Maine in the Province of the Massachusetts Bay, were cutting wild or natural grass into hay in the interior country with intention to support their cattle, while cutting & helling ^(and) mast or white pine trees out of the King's Woods in the then

ensuing winter, and that many of these people living remote from the Vice Admiralty Courts of Boston, and induced by the great cries and oppositions for the word Liberty which then agitated that Province into confusion, had resolved to cut and hallow the King's Timber in open defiance of the Laws for its preservation, that many of them had actually got some Trees into the Rivers and menaced destruction to any Officer who attempted to seize them or attack the trespassers on the penal Statute.

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It immediately appeared plain to me that an open and firm execution of the Laws in this instance would finally subdue all ideas of resistance or escape & effectually preserve the mast Timber; wherefore I embarked on the 27th July 1769 on board the Beaver Sloop of War in which Commodore Hood was so good to accommodate me; the next day arrived at Wicasset River, and on the following day took a boat which conveyed me through many Rivers to Androscoggin River where the saw-mills are. Upon my arrival I sent out, notified all the

people of my business, invited them to meet me on the River near the Mills where all the logs floated together. At the time appointed they all came, also a Justice of the peace whom I requested to be with them.

I then plainly told them the information given me of their illegal intentions & menaces, read to them the Acts of Parliament for preserving pine Timber, explained their great use, and irresistible power, and the evil consequences that must fall upon whoever attempted to oppose their effect. That I was come among them with a determined resolution to execute these Acts, and as it had been reported that they intended to resist, this was the best time to put it to trial upon me, that they were then together and might see I came armed with no other power or force than the Acts of Parliament upon which alone I should rely for my personal safety; that this was sufficient for me, therefore I brought with me only one assistant deputy, and one servant besides the boatmen who rowed us, all

were unarmed which I purposely directed, that all concerned might know that the Laws would be protection enough for those Officers that were legally executing them; after some pause an old man stepped forth & desired to be heard. He said that the people were poor, depended much upon procuring Timber for their subsistence that they had been under errors, supposing a right to the soil when actually severed to them, gave also a title to the timber of all kinds, but that they now plainly saw to the contrary, except in such tracts as were actually improved and legally possessed as private property before the year 1690, that it was likely some warm indiscreet men might say unadvised things about this business, but that I might be assured not one man among them would oppose me or any of my Deputies but readily aid us at all times, and that they would attend and guard me while in that country if I suspected the least insult or disrespect.

To this speech every man with one voice assented. After some reply approving their promised intentions to regard and be

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obedient to the Laws, I singled out one man who had been the most zealous and warm in the scheme of making their bounty too hot for Officers (as they termed it) and required him to aid and carry me off in his canoe upon the River (my boat could not come up above the Falls) & there help me seize & mark about 500 logs which belonged to him & the rest who waited on the Banks of the River within 30 yds which he directly performed, and we returned to the people in whose presence I delivered the logs into the care of the Magistrate, & informed them I would stay that night at the Inn adjacent and in the morning consider any claims they might offer for the logs - and that they might consider whether they would slide by their present resolutions of obeying the Law -

In the morning the whole party came to me and to a man expressed their fixed resolutions the same as on the preceding day. That they surrendered all claims of property in the logs I had seized which they owned to have cut upon the land

Rivers in the Winter preceding more than Six Months since and that they took an opportunity to cut from those places the deputy Surveyor had examined after he left them & was gone to other Rivers, but that they would not again Trespass.

From hence I proceeded to Kennebec River & thence to Sheepscut River where I found no waste had been made, but that a Trade for small Saplin, Norway & pitch Pine square Timber, about 9 to 12 Inches diameter, & oak beech, Maple Spruce & ash Timber of all dimensions were the principal objects, which were exported to Whitley in England & to Scotland for the use of the inland Navigations making in many parts of Great Britain.

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Among these Inhabitants and at all the Saw Mills I disseminated the care and respect due to these Laws, and was every where received not only without the least opposition but with strongest demonstrations of their obedience & disposition to do rightly.

Having thus informed them of their duty, I returned to the Ship at Wiscasset

and embraced the first fair wind to sail for Halifax to examine more particularly what part of that Province it would be most beneficial to survey Two Hundred Thousand Acres to be reserved for Woods to supply His Majesty's Navy. In this Province there are extensive growths of pitch, Norway, Saplin & apple Pine, but very few or none of white Pine fit for masts above 25 inches diameter, the Timber being in general too short and knotty, but of Oak, Ash, & the abovementioned Pines there are great quantities, & of excellent quality for ship-building, Small Bowsprits, Top Masts & small yards, for which last mentioned uses are here growing the finest Spruce Fir-Trees on the continent.

As such a Tract must hereafter be very useful to supply His Majesty's Navy Yards in America, & there being no Tract or Tracts in that Province that ever did or would produce large white Pine Trees for Masts, I thought it for the King's Service to discover & Survey a Tract well situated and clothed

and embarked the first fair wind to sail for Halifax to examine more particularly what part of that Province it would be most beneficial to survey Two Hundred Thousand Acres to be reserved for Woods to supply His Majesty's Navy. In this Province there are extensive growths of pitch, Norway, Saplin & apple Pine, but very few or none of white Pine fit for masts above 25 inches diameter, the Timber being in general too short and knotty, but of Oak, Ash, & the abovementioned Pines there are great quantities, & of excellent quality for Ship-building, Small Bowsprits, Top Masts & small yards, for which last mentioned uses are here growing the finest Spruce Fir-Trees on the Continent.

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with these Simlex Trees; and to inform his Excellency the Right Honorable Lord William Campbell Governor of the Province requesting that such Tract might be reserved for His Majesty's Naval Service until some place could be discovered whereon Mast-Trees did and would grow; Accordingly I found a Tract bounding on the Sea coast about eighteen Miles Westward of Halifax, replete with every desirable advantage for this purpose, having a fine Harbour & commodious Rivers intersecting, & covered with endless Forests of varied Timber.

This survey had been heretofore granted to a Mr Mac Nutt upon terms of improvement & population which were not complied with in any measure nor in all probability will they even be. I then waited on the Governor & requested that this Tract having reverted to the Crown by failure on the part of the grantee, might not be re-granted, but remain for His Majesty's naval service; to which his Lordship replied he would enquire into the matter & readily carry the King's Service into Effect. The first fair wind I embarked

& in eight days arrived in New Hampshire having accomplished my incumbent duty at Halifax.

Soon after my arrival I received information from my assistant Deputy, who had discovered a trespass committed on Androscoggin River, not long after my departure thence, and also secured full evidence to convict the offender James Potter. I lost no time in filing my complaint in the Court of Vice Admiralty at Boston, & upon the process obtained a Decree for £350. Sterling & cost of Court £7. 0. 2. lawful money equal to \$5. 5. 1 1/2 Steel? whereupon Potter alienated his real estate & not being possessed of goods & chattels ^[p. 216] his person was taken & committed to the bounty goal, of which the people were not only well satisfied but approved, and were aiding, so greatly had they changed all notions of resisting.

In a few days however Potter by the assistance of some persons from without, broke goal, which was secured by only one common padlock on the outside, and escaped without alarming the goaler or any person

in the House except a prisoner in the same Room, from whom we gather that it was Potter's son who helped break the lock, but it was dark & he but little acquainted with the younger Potter, therefore could not positively swear 'twas him. That this Event might still tend to benefit and strengthen the Law, I caused a petition to the Justices of the Session for the bounty requiring payment of the execution, as the escape happened through the insufficiency of the goal, according to a Law of that Province providing remedy in such cases.

The Court upon consideration of the Petition were pleased to dismiss it without relief, alledging that the escape did not happen through the insufficiency of the goal, & that the bounty were unable to pay the damages (which inability is I believe but too true) the true reason was to gain time, for it can be proved beyond a doubt that the goal was insufficient; to which end I caused a survey to be had thereof in presence of the Court, whereby I have it open to pursue a recovery at the Superior Court which will be attended with

almost a year's delay but I think will not fail of success. however that may be, the prosecution & execution thus far is of the greatest advantage to the service, having confirmed an opinion, in the people of all ranks that these Laws are not only useful and necessary for the public good, but also that the violation of them cannot escape condign punishment, and the difficulty thus brought upon that bounty so exasperates the people that stealing Timber is now almost as popularly odious as any other theft, which sentiments I take unceasing pains to cultivate & establish as the surest & most unexceptionable means of preserving Mast-Timber. By the inclosed

copies No 1.2.3. will more fully appear that these Trespassers are prosecuted to the end as directed by the Law, in which I shall not fail to persist diligently.

The logs I seized on Androscoggin River before mentioned I left there as a warning to the country, where they remained until Jan^y last, when an inundation of rain & melted Snow broke up the ice, and carried them with many Mills down

the River, & they were left in the sea. The Trees seized from Potter remain upon the spot where they were taken & serve to notify the people that such trespasses cannot escape. In the course of this year's duty I have sent deputies to the lower District of the aforesaid Province of Maine & surveyed the Rivers from Hamamocotti to the River St John, the reputed boundary between Massachusetts Bay and Nova Scotia.

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Upon many of these Lands are most excellent white Pine for large Masts. - There are many scattering Settlers on this extended Coast (& almost numberless Rivers), who have hitherto subsisted by cutting Saplin pitch & Norway Pines into Deals & square Timber for which they are equally good as white Pine for any market, and much preferable for the Sugar Islands to which their principal export is made. They also manufacture staves & heading for the same market, which with Spruce Spars for Top Masts, yards & small coasting Vessels masts, with some fish and Train oil, complete the cargoes obtained here for the West Indies.

The Saplin, Norway & pitch Pine are now by far the easiest & least expensive for these people to manufacture at present, being the commonest growth on the eastern shores, and may be had with very little hauling to their Mills: But the white or Mast Pine Trees growing some little distance into the bountry have not yet been materially broke in upon, merely from this accidental circumstance, and by no means from the virtue and forbearance of the occupiers who probably never trouble themselves about either further than compelled by fear or stimulated by Interest.

It may therefore be expected that the Timber now in use being consumed ^[p. 119] the people will fall directly upon the best Timber, and without remorse destroy the whole they can come at, unless prevented by early precautions. The most effectual that occurs to me is discouraging any Settlement in that bountry. The property is vested in His Majesty equally as in the Province of Massachusetts Bay, even in their own opinion perhaps in right much more so: - Therefore if it should please His

Majesty to refuse His concurrence to any provincial appropriation or grant of these Lands, & to forbid their improvement, it would effectually preserve an inestimable growth of Mast Timber, easily & at little expence to be had at any time for His Majesty's Service.

Another very great advantage would result from this measure which though it does not directly appertain to my Office, yet so far coinciding with the public interest thereof that I beg your Lordship's favour to pardon my suggesting it in a few words. The bad fishery must reap the greatest benefit herefrom, for upon this coast and in the Rivers are an incredible Run of young fish (during the summer) which will surely be destroyed if this coast is now settled, already the boats have found the way thither and make great profit in taking small fish scarcely fit for a Negro Market, a practice which is evidently destructive of an useful branch of Trade, and which only wants a few more Residents on this coast totally to effect. It may perhaps be said if this

bounty was granted and settled, the ^[p. 370] laws would have their course as in other parts, to which permit me to say that the claims of private property however groundless and upon trial vain, have been the greatest devourers of of the King's Timber of any that have appeared in the New England Provinces more particularly to the East of Penetangua River, therefore it may perhaps be well not to increase them where there is most danger.

As to the Laws being observed I fear from the natural difficulty and present almost impracticability of Roads in that district, so extraordinarily intersected with Rivers & covered with Forests they will make much havoc with the pine Timber before the golden age of legality will shine upon them with power to restrain their own desires from being their sole guide.

I have now to beg leave to lay before your Lordship a state of my proceedings in the Province of New York. In my letter to your Lordship dated July 10. 1769 I there mentioned my seizing some Mast-Trees cut against the Law upon Connecticut

River, in the Town of Windsor on the New York side; some time afterwards I continued to apprehend the Trespassers, viz^t William Deane, Willard Deane & William Deane jun^r. through the agency of Benj. Whiting Esq^r. who was appointed a deputy Marshal for that purpose.

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As considerable time necessarily elapsed in sending to New York for precepts, after the trespass and trespassers were discovered, it being near Three Hundred miles distance thither. This time W^m. Deane employed in collusively conveying his real Estate to one John Groat a petty fogging Lawyer in that County of deservedly infamous character and making a party of those who were interested in Saw Mills and timber land upon the said River, who from a parity of illegal interests readily joined said Deane in endeavouring in the first place to contrive the prisoner's escape. If this could not be effected, then by buying off the known evidences, or otherwise prevailing on them not to appear, thereby to preclude my sustaining the complaint upon trial; and in case neither of these could be accomplished, then

to aggravate the costs as much as possible, and by conveying the goods & chattels of the defendant, to throw all the costs upon the Crown.

In this scheme I do from my heart conscientiously believe that Saml Wells brought one of the Judges of the Court of Common Pleas & Justice of the Peace in & for the County of Cumberland in the Province of New York was the principal agent unspcakably to the injury of His Majesty's Service in this case, also tending directly to subvert & annihilate the authority and effect of all other Acts of Parliament that do or may relate to America; for it is easy to foresee that Acts of Parliament in this case being contemned and evaded by a Judge of the Court with impunity, all other Acts of Parliament will very soon share the same fate. The reasons to support this opinion of Mr Wells are submitted in the following narrative and Inclosures. The time unavoidably delayed in procuring Writs from New York, and returning to Windsor had quieted the fears of the Trespassers insomuch that Grout reconveyed their property to them.

soon after which Mr Whiting came upon
+ apprehended Willard Deane + Wm Deane
Junr; Wm Deane Senr. evading the search.

The prisoners being somewhat turbu-
-lent, and the said John Spout having
often insinuated that they should never
be carried to New York, Mr Whiting very
prudently applied to a Magistrate for
aid + assistance, presenting a proclamation
issued by the late Sir Henry Moore re-
-quiring all Officers in that Province to be
-aiding + assisting &c. Whereupon the Ma-
-gistrate commanded six men to arrest by
turns in securing the Prisoners, with whom
Mr Whiting proceeded down Connecticut
River towards New York and met no in-
-terruption until his party arrived at Itho-
-dale where Judge Wells endeavoured art-
-fully to mislead him by advising him to
pass through the Massachusetts Bay, where
he well knew John Spout aforesaid was
prepared to rescue the Prisoners and arrest
the Officer.

This is proved by the depositions
Nos. 5. 6 + 7. The first which also proves
the artful and covered method Mr Wells

took to set the evidences free from their attendance according to their respective ^(p. 223) Sub-
-plans which they would ^(all) been glad to have caught hold of to save themselves the trouble of so long a journey as to New York from their families and business, for which they could not expect any adequate payment. These suggestions are still corroborated by the deposition No 8 in the amplest manner. Yet these plans failed them although a number of men were led on to assemble & demand the prisoners at first with much warmth, but upon a full conversation with the Officer, and finding him lawfully executing a precept, and the whole matter explained to them, they quietly dispersed and even expressed contrition for the trouble they had given, and never after molested him. In due time the Trespassers arrived at New York where they were legally committed. Mr Duane an eminent patriotic Lawyer was engaged for the Trespassers. Every art was practised to delay - to prevent - to defeat the Trial, and in a few days it was insinuated to great numbers of rich men in New

York that the successful execution of these
Laws would be more injurious to Land
holders than the Stamp Act, which word
is as infectious in America as the plague,
& as unaccountably seizes upon the soundest
constitutions; it thus operated in this case.
Almost every man that heard it became
alarmed, and without further enquiry took
part with the prisoners, supposing if they
were convicted that it would be a prece-
=dent in future, and would effectually pre-
=serve all Mast Timber described in the
Statutes, to the detriment of the Land-
=holders who expected great profit to result
from cutting the best and indeed all
timber at their saw Mills.

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Mr Wells came to New York and
was very active in behalf of the pri-
=soners, representing their case as pitiable,
and finally making himself a party in a
conveyance artfully covered and directed to
operate against the just decree of Law.

When these prejudices were com-
=municated to me, I instructed the Advo-
=cate in behalf of the Brown, John Tabor
Kemp Esq: also Mr Whiting not to insist

upon a hearing until the prisoners and their proctor acknowledge themselves intirely ready, that there might be no room left to reflect on whatsoever Decree should be given, nor to complain of an untimely Trial.

At length after many delays too shameful for, and never necessary in the cause of Truth, during which the odium against the service still continued to increase, and the generally supposed interest of those who held Lands cloathed with Timber seemed universally to absorb all knowledge of and regard to the positive Statute, and to combine in endeavours and wishes to save the prisoners.

However the day of Trial came, when the facts complained of were indubitably proved notwithstanding the proffered but unpermitted perjury of W^m Deane Sen^r. before the Judge & many unavailing attempts to prevail on the brown Evidencees to abscond or to disguise the facts, that honourable Judge Morris gave a full decree in favour of the brown, and the Trespassers were committed as directed by the Statute. Upon the Trial Mr Kempe

exerted himself with great diligence, skill and fidelity; and so well conducted that the odium so artfully & wilfully excited before the hearing, then vanished and left only remaining the adverseness of private interest still to be subdued by the Laws made for and embracing the public good.

I cannot justly omit here mentioning the steady upright administration of Richard Morris Esqr. Judge of the Court of Vice Admiralty before whom this cause was tried and adjudged. From the first filing the complaint to the execution issued upon the decree hath discharged the duties of his Office with honourable & distinguishable fortitude and unimpeachable ability & justice, notwithstanding the multiplied prejudices dishonourably excited as afore recited, which might naturally be feared would injure his private interest by lessening his practice as a Lawyer in other Courts. In this laudable rectitude Mr Morris had still the more merit as his Office is without salary, and in this case without fee or reward.

It is also my duty to assure your Lordship of equal alacrity in Mr Kempe King's

Advocate in said Court, through whose faithful attention this prosecution hath been successfully conducted. May I further pray your Lordship's patience while my zeal for His Majesty's Service compels me most ardently to recommend Mr Morris as ^[p. 126] herein meriting support and encouragement from Government, and that his reputation & abilities would greatly promote the execution and just effect of the Laws entrusted to his administration.

But to return to the conduct of Mr Wells. immediately on the Decree he went back to Connecticut River and took possession of Deane's effects, who remained incarcerated at New York supported in affluence by the liberality of those who considered his cause in some degree theirs, whence the convicted Trespassers lived well and at little or no expence, as is proved by deposition N^o 8, where the deponent testifies that the said Deane told him so.

Upon Mr Wells return home he industriously propagated through the country that although Deane had been convicted, yet having contrived to leave all the costs on the Surveyor General, who would soon be richened

from more prosecutions. Therein is manifest encouragement to violate the Laws, spread from the mouth of a Judge, whose duty would have directed him to a contrary conduct; but his Saw Mills depend upon employment from the destruction of Mast Timber, and that employment is too profitable to be neglected, *fas aut nefas*; which is also proved by the last mentioned Deposition.

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Mr Whiting in the course of his duty having informed me of the dangers & discouragements the service had endured, I immediately wrote to Lieut. Governor Bolden, copy of which No 9 is herewith transmitted, and Mr Bolden's answer No 10. As soon as the Return was made on the Execution viz^t. Mess^{rs}. Deanes, that the goods & chattels were conveyed to Judge Wells, I immediately transmitted the inclosed Memorial No 11. being resolved to let slip no justifiable means if possible to carry the Execution into effect.

To this Memorial I have received for answer the Letter No 12. a Report of Council No 13 and Depositions No 14. 15. 16. 17. 18. & 19. also a bill of Sale No 20. To which I beg leave to observe, first upon the Report No 13.

As to the opinion of Mr Wells' fair character which he is said to sustain, it may be so in the District referred to, and possibly even at New York he may be thought an useful man, but I do aver his character is by no means fair or honest in any other Province where he is known; neither does he dare openly to appear in any of them lest his creditors, who loudly complain of his collusions, should apprehend his person. Mr. Wells' character was not the object of the Memorial. It was his conduct in discouraging the King's Officer from doing his lawful duty. His attempt to mislead him, thereby to cause an escape of his Prisoners; his endeavours to make the Evidence believe that the subpoenas were not binding upon them, & afterward taking a conveyance of the effects of Trespassors whereby the penalty of the Law ^[p. 320] is ipso facto, evaded, expense thrown upon the Crown, & an inlet formed to encourage total destruction of an abundant growth of Masts of excellent quality, and in commodious retentions to be procured for His Majesty's commands, and which were actually preserved by the people with great care until Mr Wells

conduct merely invited them to hope from such means to render them their own property.

These were my complaints. I neither then or now know of any unjustifiable claims of the Province of New Hampshire, neither has there been any public or private communications of them to me, whence I do rather suppose Mr Wells is obnoxious from his own conduct, and not from any claims whatever; thus far I avow that until this Report of Committee of Council I never knew or suspected he was obnoxious to any body or thing, except only to The King's Service as herein beforementioned.

That the Parties had a right to convey their effects for support may be true, but it does not appear, nor is there any proof, that the amount of the sale was well applied to support them. Had either or all the Deponents upon this point testified that it was so, there might have appeared some humanity, though very little decency or propriety in a Judge being voluntarily a Trustee for persons under criminal prosecutions on process of the Crown for goods and chattels

which might probably^[p. 29] be decreed to the King;
 but I cannot think it appears by any of
 the Depositions that this sale or the pro-
 ceeds of it was applied to the support of
 the Prisoners. Indeed the Deposition of Mr.
 Deane No 15, declares his belief that it
 was an act of humanity in Mr Wells, and
 that it was probable the Prisoners would
 have suffered without it, but still cautiously
 avoids declaring they were actually relieved
 by it; which would have been more natural
 and to the point than the curious mode
 of opinion upon Mr Wells' benevolence. I
 think it also proves that it was a con-
 -certed plan and Mr Deane conducted skil-
 -fully for his clients, & that through Mr
 Wells' humanity, the Laws of conveyances were
 twisted to defeat the operation of the Laws
 for preserving Mast Timber. As to the
 Deposition of W^m. Deane Willard Deane & W^m
 Deane Jun^r. they do not merit any notice.
 Undoubtedly those who had trespassed, and
 afterwards proffered perjury before the Court,
 or upon examination would not be very
 delicate in giving any depositions that would
 exonerate their Patron and Trustee, who had

laboured, journeyed, and studied so diligently
in their behalf, as it appears by the In-
-closures N^o. 4. 5. 6 & 7. Mr Wells had done.

In truth my Lord the depositions of
such men in this case would not have
merited my reading much less any explana-
-tion to your Lordship had they not been
transmitted to me through a channel of such
respectability. Yet if they in themselves merited
any credit | they do not clear their Friends-
verily I believe nothing can, of less power
than what can exactly and diametrically re-
-verse all his past conduct in this affair.-
Neither does the deposition N^o 16. of Ebenezer
Fishon add any vindication. He was a Pres-
-byterian himself, though from the too con-
-tracted limitation of the Statute & distance
of the Court had escaped the penalty, but
his stolen logs still lay seized at Judge
Wells' Saw Mills; it is therefore to be feared,
his testimony though in words may be part
of the ^{were not all the truth,} truth - nor so chosen as to convey
the positive actual Spirit of the conversation
which may be gathered from even this de-
-position itself, for he relates that such words
did pass, but artfully is desirous of their

appearing to be merely a matter of conversation, in which Mr Wells would be represented as informing the Officer of the Law. This very caution is strong evidence that Mr Wells was unfriendly to the service, and was careful enough to cover his conduct by other pretences.

The Deposition No 18, though verbally calculated in Mr Wells' vindication, i.e. leaves the same matter of complaint, as far as it relates to this service, for Mr Whipple testifies that Mr Wells' conversation tended to, & did actually alarm the Officer Mr Whiting, which can be no otherwise accounted for than by his finding The Kings service endangered by a Judge of one of His Courts, and this explanation is proved by many of the preceding Depositions, as well as by this Deposition No 18, which says they were all amicable until Mr Wells' expressions which the Officer felt to be dishonourable and detrimental to the duty of all The Kings Servants. As to the waver or insinuation that it was merely said, it is too pitiable even to animadvert upon. Such a feeble attempt to cover bad conduct is

plain an implication thereof as convey the clearest conviction to any unprejudiced mind of the practice. No 14 is Mr Wells' Deposition on his vindication to which I beg leave only to observe that in comparing & explaining it by the other Depositions herewith, & the consequences that have undeniably resulted; the whole is unravelled & his misconduct proved by his own attested defence or Deposition.

I shall not trouble your Lordship more in elucidating this cobweb head of Deposition, it cannot want any comment to discover its pernicious tendency to The King's Service. Some of These Depositions labour hard to represent Mr Wells' exertion to disperse the people assembled to molest Mr Whiting in the execution of his Office; such a fallacy properly becomes such a man after continued, repeated, and various insinuations dispersed among the people where in cruelty was falsely alledged against the Officer. The service itself was said to be injurious, malicious, and vexatious. It is no wonder indiscreet and unwary people were covertly led into error and madness. However upon their being informed

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of the truth they quietly dispersed without Mr Wells's aid, He carefully arrived at the place after the people were gone and none remained to discover that through his address they had assembled: But Mr Wells proceeds to apprehend two of the poor men, and with safety enough to them, for although prosecuted and the fact incontestible, not one word is said about any fine or punishment being laid on the Rioters, although tried before this zealous Judge Wells himself.

This whole business is therefore the most shallow collusion, with which I never would have presumed to have burdened the files of Office, but that such practices if suffered to remain robed in the seat of judgment & sanctified by a continued investiture of authority will soon bring destruction on this service, reduce all Acts of Parliament to mere cyphers in America, and afford a triumph to those whose greatest efforts are directed for the annihilation of every Law made in the Parliament of Great Britain respecting the colonies.

It now remains for me to observe that

if the Memorial No 11 had been granted, the sale of the Lands petitioned for might have repaid the expence which now I am compelled to transmit an Account of for re-payment at the Treasury of the Navy.

I reasonably expected the Lands would have been granted because Wm Drane had no title under New York, and if the patent under New Hampshire was as insignificant as suggested by Report of the Committee No 13 there does not appear to me any reason why the premises might not have been granted, especially as the grant was prayed for in behalf of the Crown, & for the signal purpose of carrying an important Statute into execution but having the honour to transmit the Report as full proof that I have pursued every legal step that was possible to accomplish the Service entrusted to my care, it can require no other observation from me.

The various Inclosures & narrative being thus most respectfully submitted to yr Lordship's consideration, in obedience to my duty & zeal for the King's Service, it results therefrom that it is my Duty, to represent

the necessity of Mr Wells' total dismissal from The King's Service, which it is fully evident he has discouraged and injured, although in such a clandestine manner as might perhaps elude strictly legal proofs; yet for this very reason is it more just and necessary, because the more covered such practices are and may be, the more dangerous and dishonourable are they to the King's Service.

[p. 234.]
 The course of my duty having necessarily led me to survey the interior part of the Province of New York, where I found many Tracts well covered with Oaks, Timber, though not of the best quality, yet such as will make good Oaks from 25 to 32 Inches diameter, and the largest size Bowsprits for which this Timber is peculiarly adapted. The Proprietors of the Soil claim the whole Timber as private property, alleging the bounty was granted to them before the year 1690 and without any reservation of Pine Timber. Viz^t

To Jan. Janse Blecker & others Anno 1688
 To Philip Peterse 1688
 To Killgear Van Ranselaar 1685

To Kinderhook 1686

Manor of Livingston granted 1683

These have asserted their claims and seem disposed to try their property; although I have no complaint as their conduct has by no means interrupted me, nor do they attempt the least violence. Hitherto they only forbid the Agents of the Mast contract to cut and procure Masts on the premises. I have positively asserted the King's right to the Timber, and shall take the first opportunity of any Infringe thereon to institute a process on the penal Statute unless otherwise instructed by your Lordship. The Patents are passed in general terms and without any reservation of Pine Trees whatever: And include from Fifty to Two Hundred & Fifty Thousand Acres each, upon each of them some improvement, but to be sure not one Tenth part of the whole cultivated or even divided among the Proprietors.

I have also to represent to your Lordship that a similar claim of private property has been offered to me by the Proprietors of an extensive tract of Land upon both sides of Kennebec River in that part

[p. 335.]

of the Province of Massachusetts Bay formerly called the Province of Maine. On this tract there is an abundant growth of the best pine Timber in America, and very near to long & Navigable Rivers. The Proprietors claim under a grant of the Council of Plymouth, the inclosed pamphlet was sent to me by one of them, and I suppose contains their title to the Premises upon which your Lordship will best judge. I find there has been a consideration of such claims by His Majesty's Attorney & Solicitor General Dated 23^d December 1726, also another dated Nov^r 12. 1718 by Richard West Esq^r presented to the Lords for Trade & Plantations, of which I have not copies, but have heard they were in favour of the Crown.

The Proprietors inform me, and I believe they are careful to preserve all best Timber fit for His Majesty's use, but it is my duty to observe that if they are thus preserved as private property, whenever they are wanted. The King must pay their own price, & that although now preserved, we cannot expect they will be any longer than the time in which they will yield the greatest profit p. 336]

for any use to the Proprietors.

I do not in any degree diminish my care, and cause perpetual surveys to be kept up upon the premises, which the Proprietors do not obstruct or impede, tho' many of them have threatened to prosecute in the Common Law for Trespassers. The Agents of the Mast-contract who cut and procure Masts on this claim by virtue of my Licence issued in obedience to the Royal commands to me signified and transmitted, together with the contract of Mess^{rs} Durand and Bacon; hitherto they have not instituted any process; whenever they do I shall take care that every legal step shall be pursued for the support of His Majesty's Right.

The Proprietors being most of them Gentlemen of large property, and judicious men, have not offered the least violence or disrespect to the King's Service, in their desire to appropriate & ascertain their claim, but seem to rely much on their legal title, on the merits of which your Lordship cannot fail to determine with the highest wisdom and justice whenever it may be your Lordship's pleasure to consider thereon.

As most if not all the claims of private property will be determined by the event of those, permit me most respectfully to entreat your Lordship that I may be particularly instructed herein, which ^[p. 337] Instructions I have the greatest happiness in assuring your Lordship I doubt not to carry into immediate execution; and in the mean time my utmost attention will be continued that no waste be committed on the premises.

From the nature of this service lying in various parts on long extended Rivers, and upon countries impervious but by water or long travel on foot through uninhabited Wildernesses which necessarily causes delay in arriving at places where a sudden inspection would be exceedingly useful to the Service. And in many seasons the utter impossibility of passing but by vessels and boats, I find it absolutely essential for His Majesty's Service, humbly to represent the use and to request that a small Schooner from 60 to 100 Tons, with 14 or 20 Men might be stationed under my orders to carry me and my Deputies to the many Rivers where Timber is to be preserved, by which means

it would soon be impossible for any waste of Mast Trees to be practised with impunity.

[p 338] I am the more readily & earnestly led to this solicitation as it may be done without any additional expence to Government, there being always many vessels of that sort employed in His Majesty's Fleet on the coast of America, which I presume could accomplish this service, by Six or Twelve Months Stations without interrupting their present utility, or requiring the least augmentation of their numbers or addition to their expence, and would be highly conducive to His Majesty's Service.

Having thus laid before your Lordship a particular state of the Survey of His Majesty's Woods in those important Instances wherein it has been materially affected, I now beg leave to assure your Lordship that I have the last year been peculiarly successful in preserving Mast-Timber, having kept up an incessant vigilance and Survey thro' every part of the Country in such a manner that I am positively certain there has been less Trespasses committed though the year 1769 and to this day than has

been known for any equal period the last Forty years.

It also gives me the highest satisfaction that I have hitherto successfully conducted, as to obtain a Decree upon every process instituted particularly in New York as before recited, where I had to combat with the greatest abilities and Interest, directed immediately against the Statutes, and the whole service embraced by them, which we recovered fully and upon the Acts of Parliament solely, which I insisted upon to be the only plea made, and that I would never offer any other, whereby they are established in the minds of the people, without leaving any disgust or ideas of injury, to their operation, except those excited by Mr Wells which will be obliterated by his removal from the King's Service, and by a steady perseverance in executing the Laws with candour, and firmness in the Surveyor General's Department.

Another striking evidence of the respect I have disseminated towards the Law even in the country where they were formerly most opposed, has come to my

knowledge since I have begun this Letter. I am informed from the bounty of Lincoln that the Justices and very many of the Inhabitants, immediately upon the rising of the Court, to whom I petitioned, made strict search for and retook Potter whom they have recommitted to the same goal from whence he escaped, and further to testify their sincerity are now making close search to discover and apprehend the person who from without aided Potter's escape. This they have done voluntarily and at their own expence, and they now guard him so safely that his escape is impracticable, and the whole sentence of the Law will be executed upon him, and every future evasion or opposition radically exterminated.

In these instances I entertain the most singular satisfaction as they not only importantly prosper and secure the preservation of the Kings Woods, but tend effectually to restore that just and operative veneration for the Acts of Parliament which it is the duty & interest of America to obey. Though of late years have been too generally rendered fearful and odious to the people, through those

popular artifices which have thrown many parts of this Continent into confusion and madness for some years past.

In my Letters relating this Service which I had the honour to lay before your Lordships dated July 10. 1769 was represented the urgent necessity of an appointment or rather an enlargement of the District of the Provincial Court of Vice Admiralty in this Province to contain the Province of Maine, this Province & at least Fifty Miles to the Westward of Connecticut River into the Province of New-York, and that W^m Parker Esq^r, the present Provincial Judge may preside therein: The reasons therein humbly suggested are still confirmed and increased from my observations and experience since that time & therefore compels me in duty & faithfulness to His Majesty's Service, at this time to beg your Lordships leave for thus renewing my representation, that such an arrangement would eminently promote the surest preservation of Mast Trees in that the best District for such purposes, in His Majesty's American Dominions.

I have fully considered the present

Laws for preservation of pine Timber, and
from the dilatory & illusive practices which
are tried & must ever be expected from
the stimulations of private interest it ap-
pears my duty to represent that whenever
these Acts of Parliament may be revised it
would more certainly effect their design
if execution, issued upon the penal Statute
might be extended to the real estates - at
present goods and chattels only are expressed
in the Statutes which are seldom perhaps
never possessed to $\frac{1}{10}^{\text{th}}$ part the value as of
the real estate, and may be conveyed, as
in the case of W^m Deane aforesaid, &
the convicted Trespasser has no more than
Six Months residence in a comfortable goal,
where he is well supported by $\frac{1}{6}$ or $\frac{1}{10}^{\text{th}}$
of the produce of his Farm - mayhap by
the amot. of his Trespass, and the Law
evaded notwithstanding the greatest diligence
of the Surveyor General, and what is more
pernicious, even after a Decree is obtained:
Moreover in this Country a freehold Estate
is the object of all partiality & desire, there-
fore it would much more terrify & deter
them from Trespasses if the consequence might

divert the convicted Offender proportionately of his real Estate, and more especially if the Act of Parliament also declared to be void all conveyances of every sort of property after process issued from the Court of Admiralty for trespasses upon the King's Woods, until the Deceit of the Court was satisfied.

It would also be expedient to extend the time limited for entering & sustaining complaints from Six Months the present time to Twelve Months, in which time the Officer could be sure to discover the offences, procure evidences, and direct his informations with indubitable propriety which cannot be done unless in the most fortunate circumstances in Six Months from the time the fact is committed, particularly in the Province of New York where the trespass may be and usually is transacted Four Hundred and Fifty Miles from the Court in which it must be tried.

I must also further request with the greatest respect your Lordship will be pleased to instruct me concerning the great quantities of white Pine Timber which from natural

decay, from high winds, from making Mast
Roads, and many other unavoidable casual-
ties are daily falling on the ground, & are
& ever were unfit for Masts, Yards, or Bows-
sprits & yet would be useful for deals
timber and other purposes of commerce, if
they might be permitted, and by their
removal would greatly promote the growth
of the good Timber which is much en-
dangered by their decay, & prompts evil-
minded persons to set fire in the Woods
whereby fifty cargoes of Masts may be
destroyed in a night, & morally impossible
to discover the perpetrator. If it should ap-
pear expedient to your Lordship that such
useless Timber might be surveyed marked &
delivered to the Proprietor of the Soil at
his expence and upon his request, I ap-
prehend it would cause every Landholder
to become an interested guardian of real
Mast Timber & encourage & advance a sound
growth of Timber in the best manner. And
by this regulation their cultivations will not
be impeded, which must otherwise suffer as
they may not legally cut or destroy even
this Timber. It will also coincide with the

Act of Parliament granting a bounty on Amⁿ fir Timber & Deals imported into Great Britain which must soon be frustrated entirely, unless this regulation is made, or some one similar; for it is an incontestible fact that all the Pine Timber on private property will suffice but a short time for the necessities of the Sugar Islands and of course cannot be exported to Great Britain much longer.

Having in strict obedience to the Trust reposed in me by His Majesty's commission and in unalterable zeal for His Service completed this full & exact State of The King's Woods & the Laws relating their preservation which has unavoidably extended to a great length, for which I trespass upon your Lordship's time I humbly hope forgiveness, as it proceeds from the deepest fidelity in His Majesty's Service to which my whole heart & unceasing diligence has been applied & with a degree of Success which fully supports my assuring your Lordship that the preservation of Mast Timber is greatly prospered, and that the Laws relative thereto do duly obtain reverence and respect inasmuch

that I dare promise absolutely to carry them into effect, more especially it cannot fail if it should seem meet to His Majesty most graciously to grant the aid herein dutifully suggested. or such other as may be His Royal Pleasure: All which is with the utmost deference submitted; respectfully hoping for your Lordship's favourable representation of my conduct and of my steady fidelity and earnest attachment to His Majesty's Service humbly praying it may happily meet His Majesty's Approbation.

I have the honore &c.

J. Wentworth

Incllosures.

- N^o 142 Exec. v. Potter and Petition to the Inferior Court of Lincoln.
- N^o ... 3 Bowman in behalf of the Court of the General Sessions for the County of Lincoln.
- N^o ... 4 Testification of B. Whiting Esq^r.
- N^o ... 5 Benj^a Waitt's Deposition.
- N^o 6420 Inventory of W^m Dean's moveable Estate:
And assignment of goods and chattels to

Saml Wells Esqr,

N^o 7... Testification of James Rosbrook.

N^o 8... Nathan Stone's Deposition.

N^o 9... Govr Wentworth's Letter to Lieut Govr
bolden.

N^o 10... The Answer.

N^o 11... Memorial to the Lieut Governor and
Council of New York. [p. 265]

N^o 12... Govr bolden to Govr Wentworth.

N^o 13... Report of the Committee.

N^o 14... Deposition of Saml Wells Esqr.

N^o 15 & 16... James Duane & Daniel Whipple's Deposition.

N^o 16 & 17... W^m Dean's Deposition & c^a.

N^o 19... Willard Dean's Deposition.

N^o 21... Diary of Benja Whiting.

[De Brahm to [Hillsborough] (N^o 14) 15 Oct. 1770

with list of 5 enclosures

Lords of the Admiralty to [Hillsborough]

7 Jan. 1771.

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see 05. 12.

[Inclosure]

Inclosure.

Schedule of the Papers inclosed in a Letter from the Lords of the Admiralty to the Earl of Hillsborough dated the 7th January 1771.

- A. Letter from the Commr. for collecting the Greenwich Hospital Duties to the Admiralty Board, dated the 13th March 1770. inclosing,
- B. A List of all such Ships & Vessels belonging to the Towns of Salem Marblehead & Gloucester employed in the Fishery only that have paid the Sixpence p^o Mensen for the use of Greenwich Hospital.
- C. A Letter from Hen^d. Hulton Esq^r one of the Commr. of the Customs and Deputy receiver to the Commr. for collecting the Greenwich Hospital Duties, to Mr. Hicks one of those Commr. 30th Dec^r. 1769.
- D. A Letter from the said Hen^d. Hulton Esq^r. to the said Commr. dated at Boston 8th Jan^y 1770
- E. Copy of a Letter from Edw^d. Winslow Esq^r. Deputy receiver at Plymouth to

Item: Hullon Esq^r dated Boston 29th
Dec^r 1769.

17. copy of a Letter to the said Edw^d.
Winslow Esq^r from Item: Hullon Esq^r
dated Boston 4th Jan^y 1770.

18. A Letter from the aforesaid Comm^{rs}.
for collecting the Greenwich Hospital
Duties to the Admiralty Board dated
14th Dec^r 1768. inclosing,

19. A Letter from the said Item: Hullon
Esq^r to the said Comm^{rs} dated at
Boston 11th Sept^r 1768.

20. A Letter from D^o to D^o dated at
Boston 16th Sept^r 1768.

21. A Letter from D^o to D^o dated at
Boston 20th Sept^r 1768. inclosing,

22. copy of a Letter from Mr. Fisher
collector of Salem and Marblehead
to Mr. Hullon dated Salem 15th Sept^r 1768.

23. A Letter from the said Item: Hullon
Esq^r to the said Comm^{rs} dated at
Boston 1st Oct^r 1768 inclosing

24. Extracts of two Letters from Cha^s Dudley
& John Swift Esq^r collectors of Rhode
Island and Philadelphia dated the
19th August 1768, & 15th Sept^r 1768 to

said Hen: Thelton Esqr.

1. O. A Letter from the aforesaid Commis^r for collecting the Greenwich Hospital Duties to the Admty Board dated 20th June 1769. inclosing
- P. A Letter from the said Hen: Thelton Esqr. to the said Commis^r for collecting the Greenwich Hospital Duties dated at Boston 4th April 1769, inclosing,
 2. copy of correspondence between Mr. Thelton & Mr. Nutting Collector of Salem and Marblehead in relation to the Royal Hospital Duty.
- R. Extract from a Letter received from Mr. Barberie Receiver at Perth Amboy New Jersey Janry 20th 1769. - and from one received from Mr. Winslow Deputy collector at Plymouth in the Bay of Boston March 23^d. 1769
- S. A Letter from the said Commis^r for collecting the Greenwich Hospital Duties to the Admty Board dated 14th July 1769 inclosing
- T. A Letter from Hen: Thelton Esqr. to the said Commis^r dated at Boston the 18th May 1769.

- V. Extract of a Letter from D^o to D^o [p. 353]
dated the 17th May 1769.
- W. A Letter from the said Commr. for
collecting the Greenwich Hospital Duties
to the Admty Board dated 9th Feby
1770 inclosing,
- X. A Letter from the said Hen. Hulston
Esq^r to the said Commr. dated Bos-
-ton 1st Dec^r 1769
- Y. A Letter from the said Hen. Hulston
Esq^r to the aforementioned Tho. Hicks
Esq^r dated at Boston 2^d Dec^r 1769
with a Postscript to the said Letter.
- Z. Mr. Frye & Mr. Sargents Memorial
in regard to the Fishermen at Salem
&c. to the said Hen. Hulston Esq^r
dated Nov^r 30th 1769.
- ① Copy of a Letter from the said Hen.
Hulston Esq^r to Mr. Rich^d. Moulth
Deputy Receiver at Salem dated at
Boston Nov^r 30th 1769.

[Stephens to J Pownall 7 Jan. 1771.

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[St Thomas to [Thetisborough] 1 Dec. 1770.

Thetford to [Thetisborough] 9 Jan. 1771.

ms. 6. 5. 12.